IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 15800 of 2004

Between:

A. Brahmananda Reddy, S/o. Sira Reddy, Ramapuram Village,

Peddavaduguru Mandal, Anantapur District.

..... PETITIONER

AND

1 The Joint Collector, Anantapur, Anantapur District
2 The Revenue Divisional Officer, Anantapur, Anantapur District.
3 The Mandal Revenue Officer, Peddavaduguru Mandal, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in disposing of the petitioner's appeal perfunctorily in his proceedings in Dis.No. K4/ATP/894/2004, dt.6-8-2004 as illegal, arbitrary and violative of principles of natural justice and consequently direct the respondents to continue the petitioners F.P. Shop Dealer of Ramapuram Village, Peddavaduguru Mandal, Anantapur District, pending enquiry before 2nd respondent, and pass

Counsel for the Petitioner: MR.K.SITA RAM

Counsel for the Respondents.: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

ORDER:

Petitioner is the Fair Price shop dealer of Ramapuram village, Peddavaduguru Mandal. Anantapur District. His authorisation has been suspended by the second respondent-Revenue Divisional Officer, Anantapur by proceedings dated 02-08-2004 pending enquiry into the alleged irregularities in distribution of the commodities. He preferred an appeal before the first respondent-Joint Collector, Anantapur along with an application for stay. He also filed W.P.No.14005 of 2004 contending that the first respondent-Joint Collector, failed to consider his appeal and no orders have been passed even on his application for stay. The said writ petition has been disposed of by this Court by order dated
09-08-2004 directing the first respondent to dispose of the appeal within a period of four weeks and that pending appeal, the order of suspension dated 02-08-2004 shall not be given effect to.

However, it appears that even before the disposal of the writ petition No.14005 of 2004, the first respondent has considered the appeal pending on his file and passed an order on 06-08-2004 disposing of the main appeal with a direction to the Revenue Divisional Officer to dispose of the enquiry pending on his file expeditiously. Aggrieved by the same, this writ petition is filed.

Learned counsel for the petitioner contends that the impugned order dated 06-08-

2004, which was passed mechanically without considering any one of the grounds raised in the appeal, cannot be sustained.

A perusal of the order shows that it is a final order in the main appeal. The first respondent-Joint Collector being the competent authority to hear the statutory appeal while disposing the appeal, ought to have considered the merits of the case and particularly the question whether the suspension of the authorisation, pending enquiry is warranted in the facts and circumstances of the case. Since admittedly, the first respondent-Joint Collector failed to take into consideration any one of the said aspects and dismissed the appeal without assigning any reason and merely observing that it is for the second respondent-Revenue Divisional Officer to dispose of the enquiry pending on his file, the impugned order cannot be sustained and the same is accordingly set aside.

Accordingly, the writ petition is disposed of with a direction to the first respondent-Joint Collector, Anantapur to consider the appeal afresh and pass appropriate orders in accordance with law following due process of law as expeditiously as possible preferably within a period of four weeks from the date of receipt of a copy of this order. So far as release of the stocks is concerned, the learned counsel for the petitioner states that for the month of August,2004 stocks have been lifted and distributed to the card holders by the petitioner. In the circumstances, it is left open to the petitioner to make an appropriate application before the first respondent-Joint collector, with a request to allow him to distribute the commodities for the month of September, 2004. On filing of such application the same shall be considered by the first respondent in accordance with law and appropriate orders shall be passed within a period of one week thereafter.

Writ petition is accordingly disposed of. No costs.

03-09-2004

Note: Issue C.C. by Tuesday.

B/o

klp

To

1 The Joint Collector, Anantapur, Anantapur District
2 The Revenue Divisional Officer, Anantapur, Anantapur District.
3 The Mandal Revenue Officer, Peddavaduguru Mandal, Anantapur District.

4 2CCs to G.P. for Civil Supplies, High Court buildings,

Hyderabad.(OUT).

5 2CD copies